

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL BLAKE DeFRANCE,

Defendant.

CR 21-29-M-DLC

ORDER

Before the Court is the United States' Opposed Motion for Preliminary Order of Forfeiture. (Doc. 201.) Defendant Michael Blake DeFrance has been found guilty of being a prohibited person in possession of firearms and ammunition, in violation of 18 U.S.C. § 922(g)(9), and three counts of false statement during a firearms transaction, in violation of 18 U.S.C. § 922(a)(6), as charged in the Second Superseding Indictment. (Doc. 182.) The United States seeks to forfeit Mr. DeFrance's Smith and Wesson Lady Smith .357 revolver, SN DA W6108, and five .357 rounds. (Doc. 201-1 at 1.) Mr. DeFrance opposes this motion.

First, Mr. DeFrance argues that the government's motion is untimely and thus the United States has waived its right to forfeiture. (Doc. 205 at 1-2.) It is the Court's role to determine what property is subject to forfeiture as soon as

practicable. FED. R. CRIM. P. 32.2. The Court finds the government's motion is timely and proper. As such, the Court finds there is a factual basis and cause to issue an order of forfeiture, pursuant to 21 U.S.C. § 853(a)(1) and (2). Mr. DeFrance's remaining argument relates to third party ownership of the of the firearms described in the Presentence Investigation Report. (Doc. 205 at 3-4.) Third parties can assert a legal interest in these firearms through the processes and procedures outlined below.

Accordingly, IT IS ORDERED the motion (Doc. 201) is GRANTED.

IT IS FURTHER ORDERED that Mr. DeFrance's interest in the following property is forfeited to the United States in accordance with 21 U.S.C. § 853(a)(1) and (2):

- Smith and Wesson Lady Smith .357 revolver, SN DAW6108, and five .357 rounds

IT IS FURTHER ORDERED that the United States Marshals Service, the Federal Bureau of Investigation, and/or a designated sub-custodian, is directed to seize the property subject to forfeiture and further to make a return as provided by law.

IT IS FURTHER ORDERED that the United States will provide written notice to all third parties asserting a legal interest in any of the above-described property and will post on an official government internet site (www.forfeiture.gov)

for at least 30 consecutive days as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice of the Court's Preliminary Order and the United States' intent to dispose of the property in such manner as the Attorney General of the United States may direct, pursuant to 21 U.S.C. § 853(n)(1), and to make its return to this Court that such action has been completed.

IT IS FURTHER ORDERED that upon adjudication of all third-party interests, if any, the Court will enter a final order of forfeiture, pursuant to 21 U.S.C. § 853(n)(7) and Fed. R. Crim. P. 32.2(c)(2), in which all interests will be addressed.

DATED this 19th day of September, 2023.



Dana L. Christensen, District Judge
United States District Court